

ASSEMBLY BILL

No. 128

Introduced by Assembly Member Campbell

January 15, 2003

An act to amend and repeal Section 65004 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 128, as introduced, Campbell. Internet Tax Freedom Act: continuation.

The California Internet Tax Freedom Act prohibits, with specified exceptions, the imposition, assessment, or attempt to collect (1) a tax on Internet access, Online Computer Services, or the use of the Internet or Online Computer Services, (2) a bit or bandwidth tax, or (3) any discriminatory tax on Online Computer Services or Internet access. The act provides that it is to become inoperative either on January 1, 2004, if a specified interim report is submitted to the Governor and the Legislature on or before December 1, 2002, or on January 1, 2003, if that report is not timely submitted.

This bill would eliminate the existing conditions that determine the repeal date of the act and would extend the application of the act until January 1, 2008.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65004 of the Revenue and Taxation
2 Code is amended to read:

1 65004. (a) Except as provided in subdivision (b), no city,
2 county, or city and county may impose, assess, or attempt to collect
3 any of the following:

4 (1) A tax on Internet access, Online Computer Services, or the
5 use of Internet access or any Online Computer Services.

6 (2) A bit tax or bandwidth tax.

7 (3) Any discriminatory tax on Online Computer Services or
8 Internet access.

9 (b) The prohibition in subdivision (a) against the imposition of
10 taxes ~~shall~~ *does* not apply to any new or existing tax of general
11 application, including, but not limited to, any sales and use tax,
12 business license tax, or utility user tax that is imposed or assessed
13 in a uniform and nondiscriminatory manner without regard to
14 whether the activities or transactions taxed are conducted through
15 the use of the Internet, Internet access, or Online Computer
16 Services.

17 (c) A cable television franchise fee may not be imposed on
18 Online Computer Services or Internet access delivered over a
19 cable television system if the Federal Communications
20 Commission, by issuing a final order, or a court of competent
21 jurisdiction, by rendering a judgment enforceable in California,
22 finds that those are not cable services as defined in Section 522(6)
23 of Title 47 of the United States Code and are, therefore, not subject
24 to a franchise fee. However, if that final order or judgment is
25 overturned or modified by further administrative, legislative, or
26 judicial action, that action shall control. The operation of this
27 subdivision may be suspended by a contract between a cable
28 television franchising authority and a cable television operator.

29 (d) This part shall remain in effect only until January 1, 2004,
30 ~~and as of that date is repealed, provided that the interim report~~
31 ~~required by Section 38066 is submitted to the Governor and the~~
32 ~~Legislature on or before December 1, 2002. If the interim report~~
33 ~~required by Section 38066 is not submitted to the Governor and the~~
34 ~~Legislature on or before December 1, 2002, this part shall remain~~
35 ~~in effect only until January 1, 2003, 2008, and as of that date is~~
36 ~~repealed.~~